

*the time of action brought*; and, therefore, the recovery in that action proves no more than that, at the time of its institution, the right of property, either absolute, or special, was in the plaintiff.

The absence of the negroes sold by the sheriff from the place of sale, and other irregularities in the proceedings, though they might furnish a sufficient ground for setting aside the sale, on motion to the court, upon the return of the writs of execution, are not sufficient to induce this court, after a lapse of twenty-five years, to treat the sale as a nullity.

Examined copies of the contents of the assessors' books of the several counties may be received in evidence. It would be attended with infinite inconvenience, and would defeat one of the great purposes for which these books are made, if their contents could not be proved, except by the production of the books themselves.

The objection to the jurisdiction of this court may be taken either by way of exception, or by an amended answer.

In this case, the objection to the jurisdiction was not made until the trial on the merits. The case had been once referred to the Auditor by an order passed *with consent of parties*, under which order, accounts were stated and a large mass of evidence taken, at great expense; and the delay had been so great, that if the complainant should now be turned round to his remedy at law, he would be defeated by the plea of limitations. It was **HELD**—

That in cases where the want of jurisdiction is *apparent*, the delay and the circumstances under which the objection is made, cannot be regarded; but if there be any doubt upon the subject of jurisdiction, the court may take these circumstances into consideration and be induced by them to give less heed to the objection, than if it had been made at an earlier stage of the cause.

It was further **HELD**—that, in this case, the plaintiff had not that plain, adequate and complete remedy at law, which would deny him the aid of a court of equity.

#### THE CHANCELLOR :

This case, which has been argued by the counsel on both sides with much ability, has been very carefully considered by the court.

The material facts appear to be these: The late Josiah Hughes, upon whose estate the complainant took out letters of administration, in April, 1839, died early in the year 1821. During his life he was the owner of, and in possession of sundry negro slaves, and a small real estate, which he acquired by marriage; the slaves absolutely, and the real estate as tenant by the courtesy. He became involved in debt, and judgments were recovered against him by certain of his creditors, and upon these judgments executions were issued, and levied upon the negroes!; and as alleged by the defendant, a sale was made of